



## ***AZ POST***

### ***INTEGRITY BULLETIN***

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The Arizona Peace Officer Standards and Training Board (AZ POST) is mandated by the legislature to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. The Board meets the charge to protect the public by overseeing the integrity of Arizona's law enforcement officers by reviewing cases and taking action against the certification of individuals who violate the AZ POST Rules. The following is a summary of some of the actions taken by the Arizona Peace Officer Standards and Training Board at its **December 2007 and January 2008**, public meetings. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, this Board publishes this bulletin to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have.

### **December 2007 and January 2008**

#### **CASE NO. 1**

#### **MISFEASANCE**

During a traffic stop, Officer A took possession of a handgun. There is disagreement among the parties about exactly what happened, but they agree about the following: (1) the three occupants were removed from the vehicle and sat on a curb; (2) Officer A discovered a 9mm Smith & Wesson handgun in the vehicle and, at one point, put it in his waistband or in his utility belt; (3) the officer had the occupants dispose of a large quantity of beer by pouring it into a dumpster. No citations were issued nor any arrests made. The next day, the owner called the department to retrieve his handgun. No record of the stop or the gun could be located. When first asked, Officer A could not remember having made such a stop. An investigation revealed that Officer A had run the vehicle plates and the occupant's names the night of the stop. Officer A was unable to clearly state what happened to the gun and gave several versions of his recollection. The matter was heard by an independent Administrative Law Judge who found that Officer A did not steal the gun or convert it to his own personal use. The ALJ, however, found that he mishandled the gun and because of that, it was either lost or another occupant took it. This misconduct violates the POST rule on misfeasance, malfeasance or nonfeasance in office. The Board adopted the ALJ's Findings of Fact and Conclusions of Law and suspended Officer A's certification for one year.

#### **CASE NO. 2**

#### **UNAUTHORIZED PHONE BILLS**

Specialty Officer B misused her state issued cellular telephone by accumulating over \$800.00 in personal cell phone charges. The officer had been informed that the phone was not authorized for personal use and she signed a written acknowledgement of that restriction. The Board revoked her certification for malfeasance in office.

**CASE NO. 3****MALFEASANCE**

Officer C had an 18-year-old female Explorer with him in his personal vehicle when he spotted a patrol car from his agency driving along the highway. As a practical joke, Officer C passed the patrol car at a high rate of speed (estimated to be 95mph in a 55mph zone), resulting in a pursuit. The pursuit lasted for several miles. Following the pursuit it was learned that Officer C had previously purchased alcohol for the under-aged Explorer and her under-aged friend. The Board revoked his certification for malfeasance in office.

**CASE NO. 4****MALFEASANCE**

On two occasions, Officer D illegally shared ACJIS information with a friend who was under investigation by the FBI. The board revoked his certification.

**CASE NO. 5****THEFT**

Officer E was scheduled for off-duty work each Monday in November at a new Fry's Food Store. He had also been scheduled similarly for August and September, but the store's opening was delayed. In November, he had double booked his off duty time in case the store did not open again. It opened. He did not work any of the Mondays in November. He did, however receive three weekly paychecks, each in the amount of \$193.62. He endorsed the first check and left it with the other checks for his wife to deposit. He deposited the second and he either cashed or had his wife deposit the third. The off-duty coordinator contacted Officer E and asked for repayment. Officer E suggested that he work without compensation for three shifts to make up for it, but the store would not agree. Officer E was unable to repay the money at that time because he had given it to his ill father. He re-paid it within two weeks. The Board found the commission of an offense involving dishonesty, that is, theft, and malfeasance in office. It suspended his peace officer certification until lapse, three years from the date of termination from the agency.

**CASE NO. 6****INEFFICIENCY and INSUBORDINATION**

Sergeant F had six reports on his desk that he should have reviewed between two weeks and three months before. He was disciplined for failing to review the reports and ordered to keep up. Sergeant F admits he was "bullheaded" and when he found the same reports on his desk following his suspension, he decided that whoever put them there would eventually tell him what they wanted him to do with them. Months later when his supervisors checked, the reports were still there. He was terminated and the Board adopted a consent agreement for a six month suspension of certification for misfeasance, malfeasance and nonfeasance in office.

**CASE NO. 7****DISHONESTY**

Officer G was due to report to work at 0630 hours following an out of town trip. At 0717 hours, his supervisor called him, woke him up, and asked him why he was not at work. Officer G lied to his supervisor by saying his flight had been delayed and he called dispatch when he arrived at about 0515 that morning to say he would be late. He repeated these lies during an official investigation after Garrity admonishments had been given. His story was proven untrue by phone tapes and airline records. The Board revoked his certification.

**CASE NO. 8****DISHONESTY**

Officer H was conducting background investigations for his agency. He was stressed out over personal and family problems and wrote in three of the background reports that all of the references had been contacted. In fact, they had not been contacted. The Board revoked his certification for false reporting and malfeasance in office.

**CASE NO. 9****MISUSE OF DEPARTMENT PROPERTY**

Officer I took his friend and brother-in-law to Las Vegas in his undercover department vehicle. He became extremely intoxicated and allowed them to use the vehicle without him, but with his duty weapon and police identification and badge in it. Las Vegas police stopped the vehicle on the report of a suspicious vehicle observed in an area of high narcotics activity. Las Vegas notified the department of what they had found. The department entered a stolen vehicle report and requested a welfare check on Officer I. When he was located, he took responsibility for his actions but refused to cooperate with an investigation. The department terminated his employment and the Board revoked his certification for malfeasance in office.

**CASE NO. 10****FIGHTING**

Recruit J was the instigator in a bar fight during his academy training. He was convicted of Disorderly Conduct, Fighting, and dismissed from his agency. The Board denied him peace officer certification for the commission of an offense involving physical violence.

**CASE NO. 11****MALFEASANCE**

Cadet K was employed as a correctional officer just prior to entering the academy. He smuggled vodka to a person being held on suspicion of murder. This constitutes a class 5 felony, promoting prison contraband. The Board denied him peace officer certification.

The Board adopted consent agreements calling for a voluntary relinquishment in the following fact situations. The scenario stated here reflects the allegations giving rise to the POST case, but the facts were not proven before the Board.

- An officer gave false information to a peace officer conducting a criminal investigation.
- A sheriff was convicted of misuse of public resources.
- An officer shot a bull elk when he had a cow elk tag and later lied about it during an investigation.

The Board entered a mandatory revocation for a conviction of the following felonies:

None.

On December 19, 2007 and January 16, 2008, the Board voted to close out the following cases without initiating a Complaint for disciplinary action. This is neither a finding that no misconduct occurred nor a comment that the Board condones the conduct. In fact, the Board's rules are very broad and all misconduct violates one or more of the disciplinary rules. The Board may choose not to initiate a Complaint in a case even though there is misconduct if, considering all the circumstances, including agency discipline, the conduct does not rise to the level requiring a formal administrative proceeding. In many of these cases, the Board makes a statement that the conduct is an important consideration for a future hiring agency. By not taking disciplinary action, the Board leaves the determination of how serious the misconduct was to the discretion of an agency head who may choose to consider the officer for appointment. The Board relies on and enforces the statutory requirement of A.R.S. §41-1828.01 that agencies share information about misconduct with each other, even in cases where the Board has chosen not to take additional independent disciplinary action. Additionally, in some of these cases, further information is necessary before a charging decision can be properly made.

- An officer failed to assist another officer making an arrest under circumstances that made the assistance seem unnecessary.
- Two deputies violated their agency's off-duty work policy by underreporting off-duty hours.
- A recruit denied leaving a box unlocked when circumstances suggested it was probable that he left it unlocked.
- An officer testified at a personnel hearing in ways his supervisor believed were inconsistent with his statements during the investigation. POST believed the differences were vague and may have been honest mistakes.
- An officer struck a parked car and failed to report it but was honest when asked.
- An officer drove his personal vehicle under the influence of alcohol.